

ENTERED

November 04, 2024

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

FEDERAL TRADE	§	CIVIL ACTION NO
COMMISSION,	§	4:24-cv-02508
Plaintiff,	§	
	§	
	§	
vs.	§	JUDGE CHARLES ESKRIDGE
	§	
	§	
TEMPUR SEALY	§	
INTERNATIONAL	§	
INC, <i>et al</i> ,	§	
Defendants.	§	

MINUTE ENTRY AND ORDER

Minute entry for STATUS CONFERENCE before Judge Charles Eskridge on November 1, 2024. All parties present and represented by counsel by video.

The Court addressed the joint email from the parties of October 30, 2024, which largely stated agreement as to procedural matters for evidentiary hearing.

It was ORDERED as follows.

Joint prehearing statement. No such statement need be submitted. Also waived was submission of the Court's standard joint pretrial order. Submission of briefing on the motion for preliminary injunction, along with exhibit and witness lists, will be sufficient in advance of hearing.

Opening statements. Each side will have one hour to make opening, which will count against overall trial time.

Confidentiality in opening statements and with witnesses. The parties must seek to limit the need to refer directly to confidential materials in their opening arguments. But confidential material may be presented in closed session at the conclusion of openings if necessary. As

to witnesses, confidential material will be addressed at the conclusion of testimony where possible. The parties will also investigate technology to allow confidential material to be shown only on authorized screens in the courtroom.

Exchange of demonstratives. Any newly created demonstratives or charts must be exchanged at least thirty-six hours prior to use. Any demonstratives or charts submitted by experts and any source already disclosed must be exchanged by 8 p.m. the evening before use.

Witness order and time estimates. The FTC must provide its witness order and estimated times by November 1st. Defendants must provide their witness order and estimated times by November 5th. The FTC must provide its estimated times for witnesses on Defendants' list by November 7th.

Deposition and investigative hearing designations. Affirmative designations are limited to eight hours, with counter-designations limited to six hours. Time may be allocated to each witness as seen fit by a party within its time limits.

Confidentiality of exhibits and deposition testimony. For designation exchanges and related confidentiality deadlines as to third parties who *are not* trial witnesses: (i) parties to make affirmative designations by November 1st at 7 p.m. Eastern; (ii) parties to make counter-designations and objections by November 5th at 7 p.m. Eastern; (iii) parties to notify third parties of designated testimony and related exhibits by November 6th at 5 p.m. Eastern; (iv) third parties to notify parties of objections relating to designations and exhibits by November 8th at 5 p.m. Eastern; and (v) third parties to move to seal any designations, related exhibits, or third party documents cited in the briefs as deemed appropriate in good faith by November 15th. For motions to seal and any related confidentiality deadlines as to third parties who *are* trial witnesses, third parties to file by November 8th. The parties should advise promptly if there was intention to reflect different deadlines than those just described.

Virtual testimony as to Macy's and Slumberland. Witnesses for Macy's and Slumberland will testify by video. The parties are to give sufficient advance notice to the Case Manager to ensure that connection is set up for the appropriate time. All other testimony will be live, absent alternative permission sought and obtained in advance.

Streaming or real-time access. No cameras will be allowed in the courtroom and no live video stream will be available other than that noted immediately above. The parties may confer with the Case Manager and ERO to ensure real-time transcript feed or other prompt access to daily testimony.

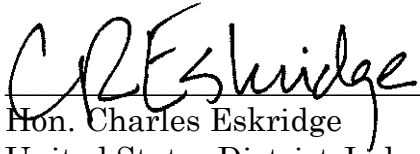
Scope of direct. The parties must confer further on any anticipated concerns as to cross-examination off of scope of direct. The Court's intention is to have testimony from each witness in its entirety, rather than there be need to recall a witness in the other side's case.

Closing arguments. The parties are to confer and advise when joint proposed findings of fact and conclusions of law will be submitted post-hearing, with a target requested during the week of December 9th. Closing arguments will be scheduled thereafter, with the intention to hear closing arguments before the Christmas holiday. The parties should also advise as to the length of time requested for closings.

November 8th pretrial conference. The parties must confer and advise of a requested start time for the final pretrial conference.

SO ORDERED.

Signed on November 4, 2024, at Houston, Texas.


Hon. Charles Eskridge
United States District Judge